

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking into the operation of interruptible load programs offered by Pacific Gas and Electric Company, San Diego Gas & Electric Company, and Southern California Edison Company and the effect of these programs on energy prices, other demand responsiveness programs, and the reliability of the electric system.

Rulemaking 00-10-002
(Filed October 5, 2000)

**PRESIDING OFFICER AND ASSIGNED COMMISSIONER'S RULING
ON PROCESS FOR A CUSTOMER TO QUALIFY AS AN ESSENTIAL
CUSTOMER NORMALLY EXEMPT FROM ROTATING OUTAGES
ON THE BASIS OF PUBLIC HEALTH AND SAFETY**

1. Summary

Respondent utilities and the Commission shall implement the process stated in Attachment A to consider non-residential customer requests to be included as an essential customer normally exempt from rotating outages on the basis of public health and safety. Respondent utilities shall notify all non-residential customers of this process by direct mail within four business days of the date of this ruling. The Notice is contained in Attachment B.

2. Background

The Commission recently modified Decision (D.) 91548 (3 CPUC2d 510) to update the Priority System for Rotating Outages, including the list of essential customers normally exempt from rotating outages. (D.01-04-006, Attachment C.) Many other customers continue to press for exemption for Summer 2001, however, including, but not limited to, skilled nursing facilities, water districts,

sewer districts, laboratories, dentists, outpatient surgery centers, refineries, and stadiums.

3. Discussion

The Commission intends to be responsive to pending and new requests for exemption from rotating outages. Summer 2001 is fast approaching, and the Commission must act quickly.

At the same time, however, every exemption reduces the pool of customers from which to draw for rolling outages. The potential frequency and duration of rotating outages experienced by all remaining customers is increased as the pool of candidate customers is reduced. Moreover, maintenance of a reasonable pool of customers available for rotating outages is vital to have rotating outages as a tool in protecting the state from widespread system collapse when demand otherwise exceeds supply.

The Commission is considering further modification to the list of essential customers.¹ The proposed modification would allow exclusion of additional customers as necessary to protect public health and safety. The exclusions, if any, would be based on balancing the public interest between exempting additional customers and maintaining as large a pool as possible from which to draw for outages.

Because time is short, non-residential customers should be permitted now to petition for status in what is soon expected to be the new classification of essential customer normally exempt from rotating outage. (Item 1.M. on the amended list of Essential Customers.) The process will be limited to non-

¹ A Draft Decision was issued for comments on May 3, 2001. The Draft Decision is Item 6 on the agenda for the Commission meeting to be held on May 24, 2001.

residential customers at this time for the following reasons. First, there is no evidence that rotating outages affecting residential customers threatens public health and safety beyond the individual customer. The focus of this further consideration of essential customers is jeopardy or danger, beyond harm or inconvenience to the individual customer, to the wider public health and safety.

Second, the administrative burden associated with processing the anticipated volume of residential petitions would prevent the Commission from acting in a fair and timely fashion to expand the list of essential use customers as necessary for other customers. A successful process for Summer 2001 must be focused so that it may yield the most benefit to the state in the limited time available.

Third, each excluded customer excludes an entire circuit. The greater number of residential customers, if granted exemptions, would quickly end rotating outages as an effective tool.

Non-residential customers must be notified of this opportunity, and time is of the essence. As a result, respondent utilities should notify each non-residential customer of this process by direct mail.

Further, the Commission must have information on the effect to the electric system of granting some or all petitions. To accomplish this, respondent utilities should provide information or analysis requested by the Commission or the Commission's consultant on load and system conditions.

On April 23, 2001, the California Association of Health Facilities (CAHF) filed a petition for modification of D.01-04-006 asking that skilled nursing facilities be classified as essential customers. The petition will be considered within the scope of the process described and adopted herein. To be considered, however, CAHF must resubmit its request using the procedures, and specific petition form, adopted in this ruling.

Any similar pleading by any other party (e.g., pleadings by water districts, steel companies, glass companies) must also be resubmitted using the procedures and specific petition form adopted herein. The April 23, 2001 CAHF petition, or similar petitions or pleadings, will not be processed for the purpose of considering general or specific exemptions absent CAHF and other parties providing the necessary customer-specific information on the specific petition form adopted herein.

The adopted process requires respondent utilities to undertake a special mailing to all non-residential customers, incur other costs for load and system analysis, and may involve other costs. Respondent utilities may include these costs in the memorandum accounts authorized by D.01-04-006 for costs incurred implementing orders issued in this proceeding. Respondent utilities carry the burden of proof for eventual recovery of these costs but, as stated in D.01-04-006, absent incompetence, malfeasance, or other unreasonableness, the Commission expects to authorize full recovery of all dollars spent by utilities for these programs to get California through this crisis. (Mimeo., page 78.)

IT IS RULED that:

1. The process contained in Attachment A shall be adopted and used by the Commission to consider petitions by non-residential customers for inclusion in the essential customer category normally exempt from rotating outages based on public health and safety.
2. Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE) and San Diego Gas & Electric Company (SDG&E) shall each provide direct mail notice of the process adopted in Attachment A to each non-residential customer within four business days of the date of this ruling. Respondent utilities shall use the Notice in Attachment B for this purpose.

3. Respondent utilities shall promptly respond to all inquiries from the Commission or the Commission's consultant for load and reserve margin analysis, or any other request for information or analysis, to successfully implement the process adopted herein.

4. The April 23, 2001 petition for modification of Decision 01-04-006 filed by the California Association of Health Facilities (CAHF), and any similar pleadings by any other party, shall be considered using the adopted procedures and specific petition form adopted herein. CAHF shall complete and submit on behalf of each customer, or have each customer complete and submit, the petition on the Commission's website: www.rotating-outages.com.

Alternatively, CAHF or the customer may call 1-888-741-1106 for further assistance. A separate petition using the petition form adopted herein must be submitted for, or by, each customer. Any similar petition for modification or other pleading filed by any other party shall also be considered using the procedures adopted herein. The party shall complete for each customer, or each customer represented by the party shall complete, the petition on the Commission's website, or may call 1-888-741-1106 for assistance.

5. Each respondent utility may record in the memorandum account authorized by Decision 01-04-006 the costs incurred to implement the orders and procedures adopted in this Ruling.

Dated May 21, 2001, at San Francisco, California.

/s/ CARL WOOD

Carl Wood
Presiding Officer
Assigned Commissioner

ATTACHMENT A

PROCESS FOR A NON-RESIDENTIAL CUSTOMER TO QUALIFY AS AN ESSENTIAL CUSTOMER NORMALLY EXEMPT FROM ROTATING OUTAGES ON THE BASIS OF PUBLIC HEALTH AND SAFETY

A non-residential customer of a Commission regulated respondent public utility may file a petition seeking status as an essential customer normally exempt from rotating outages on the basis of public health and safety. Petitioners are strongly encouraged to complete an electronic form on the Commission's website (<http://www.rotating-outages.com>). Petitioners without electronic access may call the toll-free information line at 1-888-741-1106 for assistance. Consideration of incomplete applications may be delayed.

The filing of a petition by any petitioner constitutes submission under penalty of perjury by the person submitting the form that the statements in the petition are true, and matters stated based on information and belief are believed to be true. The petition may be submitted by the customer, or may be submitted on behalf of the customer by an individual, a corporate officer, a government officer, an authorized agent, or an authorized employee representing the customer. (Rule 2.4 of the Commission's Rules of Practice and Procedures.) The name, title (if applicable), and relationship to the customer of the person submitting the form shall be clearly stated.

The request must include facts sufficient to demonstrate that inclusion of the customer in a rotating outage presents imminent jeopardy or danger to public health and safety beyond economic harm or inconvenience to the customer. Petitions will not be accepted from residential customers.

The petition need not be served on any other party. A special service list will be created solely for the purpose of this portion of the proceeding. (Rule 2.3(g).)¹ The special service list will be composed of each petitioner, and any party to the Rulemaking that asks to also be included on the special service list.

¹ Comment on creation of the special service list is waived given the shortage of time, and the fact that any party may seek to be added to the special service list. (Rule 87.)

Each petition will be reviewed by a consultant hired by the Commission for this purpose. The consultant will conduct a risk assessment and screening. Based on the risk assessment, the consultant will develop a prioritized list of the requests for essential customer status. Utilities will analyze the effects on load and system conditions if exemptions are granted.

A Draft Decision will be prepared in which petitions for essential customer status based on public health and safety are granted or denied. Comments may be submitted on the Draft Decision and, if submitted, shall be filed with the Commission and served on the special service list using a shortened comment cycle. Each customer authorized essential customer status in the Draft Decision, or the representative of the customer who submitted the petition, must file a written verification with the Commission no later than the date comments are due on the Draft Decision. (See Rule 2.4.) The verification must be signed and dated. It must state that the contents of the petition are true of the verifying person's own knowledge as of the date the petition was filed, except as to matters that were stated on information or belief, and as to those matters that the verifying person believes them to be true as of the date the petition was filed. (Rule 2.4(b).) The Draft Decision will be considered by the full Commission at the first meeting after the Draft Decision is issued for comment, and the comment period has expired.

Hearing will not be held on any request unless, in an exceptional case, one is specifically called by the Assigned Commissioner, or assigned Administrative Law Judge. Absent the exceptional case with a hearing, the Commission's decision will be based on the petition, report and recommendation of the consultant, the load/system analysis performed by the utility, any other data or analysis submitted at the Commission's or consultant's request, the customer's verification, and comments on the Draft Decision.

Rules 4-8.2 (Article 2.5 regarding SB 960 procedures) shall be waived. As a result, for example, the proceedings will not be categorized, and a scoping memo and ruling will not be issued. This is done to secure a just, speedy and inexpensive determination and resolution of each pleading. (Rule 87.)

The Commission will be requested to reduce or waive the normal 30-day period for public review and comment of the Draft Decision based on the public necessity to grant some or all pleadings to preserve public health and safety. (Rule 77.7(f)(9).)

Petitions may be filed at any time. Petitions filed by 5:00 p.m. Pacific Daylight Savings Time (PDT) on June 1, 2001 will be processed as a group, and will be considered by the Commission on or before August 2, 2001. Requests filed thereafter will be processed in groups for subsequent meetings. Every reasonable attempt will be made to address public health and safety in the broadest, most inclusive way, but requests filed by 5:00 p.m. PDT on June 1, 2001 may obtain exemptions that are unavailable for later petitioners.

The planned schedule is:

By 5:00 p.m. PDT June 1, 2001 Deadline for petitions

July 10, 2001

Draft Decision filed and served for comment

July 16, 2001

Comments filed and served on Draft Decision; verifications filed by customers granted essential customer status in Draft Decision

On or before August 2, 2001 Commission Decision

Petitions will be filed in Rulemaking 00-10-002, but need not be served on any other party. The consultant will maintain a list on the website (<http://www.rotating-outages.com>) of all petitions that have been filed.

Notice of the opportunity for non-residential customers to petition for essential customer status based on public health and safety will be accomplished by:

1. Utility direct mailing to all non-residential customers within four business days of the date of the Assigned Commissioner's Ruling;
2. PUC press release and press conference;
3. Publication on the web site (<http://www.rotating-outages.com>) of the electronic petition form and information;
4. Information at 1-888-741-1106.

(END OF ATTACHMENT A)

ATTACHMENT B

DIRECT MAIL NOTICE TO NON-RESIDENTIAL CUSTOMERS

Respondent utilities shall mail the following notice directly to non-residential customers.

IMPORTANT NOTICE TO NON-RESIDENTIAL CUSTOMERS

This summer, California is facing the possibility of frequent rotating electrical outages (blackouts). Certain customers, such as hospitals, fire and police stations, and air traffic control facilities, are classified as essential use customers and are normally exempt from rotating outages.

The number of customers who can be exempted is severely limited due to the necessity of maintaining a reasonable pool of customers from which to draw for rotating outages. These outages are a vital tool in protecting the state from widespread electrical system collapse when demand for electricity exceeds supply.

The California Public Utilities Commission (CPUC) is in the process of modifying the list of essential customers as necessary to protect public health and safety. The Commission is now considering applications from non-residential customers for essential customer status.

A non-residential customer of Pacific Gas and Electric, Southern California Edison and San Diego Gas and Electric may file an application seeking status as an essential use customer. Applicants are strongly encouraged to complete an electronic form on the CPUC's website (<http://www.rotating-outages.com>). Those applicants without internet access should call the toll-free information line at 1-888-741-1106.

The application shall be submitted by the customer, or may be submitted on behalf of the customer by an individual, a corporate officer, a government officer, an authorized agent, or an authorized employee.

The request must demonstrate that inclusion of the customer in a rotating outage presents jeopardy or imminent danger to public health or safety. Claims of economic harm or inconvenience to the customer will not be considered. Applications will not be accepted from residential customers.

All applicants will be required to sign under penalty of perjury that the application is true and correct. Any claims of jeopardy or danger to public health or safety will be referred to appropriate state and local agencies including the Office of Emergency Service and the Occupational Health and Safety Administration.

Each application will be reviewed to determine the risk posed to public health and safety as a result of the applicant being subject to rotating outages. Applications will be prioritized based on risks posed to public health or safety. Utilities will analyze the effects on electric system reliability if exemptions are granted. The CPUC will review both the risk assessment and any effects on electric reliability associated with a request for essential use customer status.

A Draft Decision will be prepared in which applications for essential use customer status are granted or denied based risks posed to public health or safety. Comments may be filed and served on the Draft Decision. Any requests for exemptions that are submitted before 5:00 p.m. Pacific Daylight Time (PDT), June 1, 2001 will be acted upon on or before August 2, 2001.

Many customers share distribution circuits with essential customers and thus have not experienced rotating outages. **Because circuit configurations may change, customers who believe they currently qualify as essential use should contact their utility to verify their actual status.**

Applications must be received by **5:00 p.m. PDT, June 1, 2001** to ensure timely consideration. Applications filed after June 1, 2001 will be considered only if conditions permit additional exemptions.

If you have questions or need additional information please see the CPUC's special website (<http://www.rotating-outages.com>) or call the CPUC's toll-free information line at 1-888-741-1106.

(END OF ATTACHMENT B)

CERTIFICATE OF SERVICE

I certify that I have by both mail and by electronic mail, to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Presiding Officer and Assigned Commissioner's Ruling on Process for a Customer to Qualify as an Essential Customer Normally Exempt from Rotating Outages on the Basis of Public Health and Safety on all parties of record in this proceeding or their attorneys of record.

Dated May 21, 2001, at San Francisco, California.

/s/ GABY L. SUSANTO
Gaby L. Susanto

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.